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**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ACUITY, A MUTUAL INSURANCE COMPANY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Court No. 21-cv-04729
	)	Honorable Sara L. Ellis
MIDWEST EXPRESS ACQUISITION	)	Magistrate Honorable Susan E.
COMPANY, SCORPION LOGISTICS, INC.,	)	Cox
PROGRESSIVE COMMERCIAL, RYSZARD	)	
DOWHAN, and ZOFIA DOWHAN,	)	
	)	
Defendants.	)	

ARTISAN’S MOTION TO DISMISS.

Defendant, Artisan and Truckers Casualty Co. (incorrectly sued as Progressive Commercial) by one of its attorneys, Thomas L. Buck, Magnani & Buck Ltd., sets forth below its motion to dismiss this cause pursuant to Rule 12(b) of the Federal Rules of Civil Procedure for lack of subject matter jurisdiction.

This litigation concerns a dispute over insurance coverage. (Doc. 1.) Plaintiff, Acuity, seeks a declaration that a policy of insurance does not provide coverage for a motor vehicle accident, while another policy of insurance does. (Id.)

Acuity’s complaint alleges diversity jurisdiction pursuant to 28 U.S.C. §1332. (Doc. 1, ¶ 11.) Acuity alleges: (1) this matter arises under diversity jurisdiction where the insurance proceeds at issue exceed \$75,000.00; and (2) diversity of citizenship exists where Acuity, is a citizen of the State of Wisconsin and none of the Defendants are citizens of the State of Wisconsin. (Doc. 1, ¶ 12; doc. 12, ¶ 2.)

For diversity to exist, the plaintiff and the defendant must be citizens of different states. Complete diversity is required such that the plaintiff must be a citizen of a different state with regard to each defendant. See Kauth v. Hartford Insurance Company of Illinois, 852 F.2d 951, 958 (7<sup>th</sup> Cir. 1988).

Acuity and Artisan and Truckers Casualty Co. (“Artisan”) are corporate insurance companies. (Doc. 1, ¶ 6; doc. 14.) For a corporation, including an insurance company, the party is considered a citizen of the state by which the party has been incorporated and a citizen of the state where the corporation has its principal place of business. 28 U.S.C. §1332(c)(1).

Acuity is a Wisconsin corporation with its principal place of business in Sheboygan, Wisconsin. (Doc. 1, ¶ 6.)

Artisan is a Wisconsin corporation with its principal place of business in Mayfield Village, Ohio. (Doc. 14.)

Insofar as the plaintiff, Acuity, and the defendant, Artisan, are Wisconsin corporations, both are considered citizens of the same state for the determination of diversity jurisdiction. 28 U.S.C. §1332(c)(1). There is no diversity of citizenship between Acuity and Artisan.

Complete diversity of jurisdiction between the plaintiff and all of the defendants does not exist in this cause, and, therefore, Artisan respectfully requests this Court to dismiss this matter pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

Respectfully submitted,

Artisan and Truckers Casualty Co.

/s/Thomas L. Buck  
Magnani & Buck Ltd.  
321 South Plymouth Court  
Suite 1700

Chicago, IL 60604  
312-294-4800  
Attorney No. 06185155  
Email: [tlb@magnanibuck.com](mailto:tlb@magnanibuck.com)

Under penalties as provided by law pursuant to section 1-109 of the Code of Civil Procedure, the undersigned, counsel for Artisan and Truckers Casualty Company, certifies that the statements set forth above in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/Thomas L. Buck  
Magnani & Buck Ltd.  
321 South Plymouth Court  
Suite 1700  
Chicago, IL 60604  
312-294-4800  
Attorney No. 06185155  
Email: [tlb@magnanibuck.com](mailto:tlb@magnanibuck.com)

#### CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that he caused the foregoing Artisan and Truckers Casualty Co.'s motion to dismiss to be filed with the Clerk of the U.S. District Court for the Northern District of Illinois using the CM/ECF System which will send notification of such filing to the attorneys of record on this 24th day of January, 2022.

/s/Thomas L. Buck  
Magnani & Buck Ltd.  
321 South Plymouth Court  
Suite 1700  
Chicago, IL 60604  
312-294-4800  
Attorney No. 06185155  
Email: [tlb@magnanibuck.com](mailto:tlb@magnanibuck.com)